

**Town of Sunset Beach
Monthly Council
Work Session, Public Hearings and Regular Meeting
January 4, 2016**

MINUTES

Members Present: Mayor Ron Watts, Mayor Pro-Tem Carol Scott, Councilman Lou DeVita, Councilman Mark Benton and Councilman Rich Cerrato

Members absent: Council vacancy

Attorney & Staff Present: Susan Parker, Town Administrator; Bonnie Schwerd, Finance Director; Dustin Graham, Public Works Director; Rawls Howard, Planning and Inspections Director; Kevin Dempsey, Fire Chief; Lisa Joyner, Police Chief; and Lisa Anglin, Town Clerk

Mayor Watts called the Meeting to order at 6:00 pm.

Closed Session

COUNCILMAN DEVITA MADE A MOTION TO GO INTO CLOSED SESSION PURSUANT TO NCGS 143-318.11 (a) (3) TO CONSULT WITH ATTORNEY RICHARDSON CONCERNING LITIGATION WITH JAGUAR'S LAIR AND WITHERS & RAVENEL. MAYOR PRO-TEM SCOTT SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

The Council met in Closed Session for approximately 50 minutes and discussed the litigation with the Jaguar's Lair Bond Company and Withers & Ravenel.

COUNCILMAN BENTON MADE A MOTION TO RETURN TO OPEN SESSION. MAYOR PRO-TEM SCOTT SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

MAYOR PRO-TEM SCOTT MADE A MOTION TO RECONVENE THE MEETING. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Work Session

The Work Session convened at 6:55 pm. Mayor Watts called for agenda amendments and general discussions by the Council.

Draft Agenda Review

Mayor Watts advised that Representative Frank Iler is unable to attend the meeting. The Council agreed to add the following to the January 4, 2016 agenda:

- Procedural Items 8f – Consideration to Move Work Sessions to the evenings.
- Procedural Items 8g - Agenda Preparation
- Procedural Items 8h – Council Procedures
- Old Business 9d – Survey Discussion
- New Business 10f – Beach Cabanas

Draft Agenda Review (Cont.)

The Council reviewed the January 19, 2016 draft agenda and agreed to add the following items:

- Sunset at Sunset

General Council Discussions

No discussion heard.

Monthly Meeting

The Meeting convened at 7:10 pm and the Pledge of Allegiance was recited by those in attendance.

Approval of the Draft Agenda

MAYOR PRO-TEM SCOTT MADE A MOTION TO APPROVE THE AGENDA AS AMENDED. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Public Hearing – Temporary Development Moratorium

Mayor Watts advised that the purpose of the public hearing is to hear comments concerning a proposed Temporary Development Moratorium on lots requiring fill of 1' or more above the crown of the road.

Tyler Newman Business Alliance for a Sound Economy (BASE) – Spoke in opposition of the Moratorium citing NCGS prohibits municipalities from enacting a moratorium on development for the purpose of developing and adopting a new or revised development ordinance.

Bruce Hovermale 1429 Bay Street – Advised that the Inspections Department held the construction of his new home to the fill ordinance requirement although it is now known that the ordinance didn't exist; spoke in favor of the moratorium and the fill ordinance.

Matt Nichols Attorney for Palm Cove Property Owners and Property Owners Association – Spoke in opposition of the moratorium and reminded Council that the settlement agreement between the Town and the Palm Cove owners prevents the Town from imposing a moratorium on their lots; advised that NCGS 160-381(e) prohibits this type of moratorium within NC.

John Corbett 1313 Canal Drive – Advised that the Inspections Department held the construction of his new home to the fill ordinance requirement although it is now known that the ordinance didn't exist; spoke in favor of the moratorium and the fill ordinance.

Elizabeth Nelson Cape Fear Engineering – Spoke in opposition of the moratorium and showed examples of the engineering and construction issues that will be caused by a fill ordinance as proposed.

Bert Exum Palm Cove Lot 10 Owner – Spoke in opposition of the moratorium and advised that a flat roof construction will be the result if the fill ordinance is enacted.

Jan Harris 206 North Shore Drive – Spoke in favor of the moratorium

Sammy Varnum 1574 Monster Buck Estates – Questioned if a lot with a natural grade higher than 1' will be required to remove dirt.

MAYOR PRO-TEM SCOTT MADE A MOTION TO CLOSE THE PUBLIC HEARING. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Public Comments on Agenda Items Only

Ann Bokelman 404 3rd Street – Requested that Council not take action concerning cabanas because the public was not made aware in advance that this item was going to be added to tonight’s agenda.

Jan Harris 206 North Shore Drive – Requested Council to order an investigation to determine how the fill ordinance was omitted during the UDO adoption.

Town Administrator Report

Stormwater Management Plan RFQ – Susan Parker, Town Administrator, advised that a meeting is planned for later this week to negotiate a contract that will be presented to Council for consideration in February or March.

Town Park – Parker advised that a meeting is scheduled with PARTF Representatives for tomorrow at 2:00 pm to discuss the existing and required park amenities, terminating the contract and determining a workable solution. Parker advised that the contractor has agreed to build the restroom facility as long as the construction plans do not change. Mayor Pro-Tem Scott and Councilman Benton will join Staff for the PARTF meeting.

Departmental Reports

Due to the length of the agenda, Department Head only provided written reports.

Procedural Items

Establishment of Council Liaisons and Assignments

Mayor Watts requested Council to consider not assigning Council liaisons but rather to hear directly from the Committee and Board Chairpersons on a quarterly basis. Mayor Watts advised that Council will need to appoint a member to the GSATS group and the Brunswick Shoreline Protection group.

MAYOR PRO-TEM SCOTT MADE A MOTION TO ADD COUNCIL LIAISONS, APPOINTMENTS AND ASSIGNMENTS TO THE FEBRUARY 1, 2016 AGENDA. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Discussion Concerning Attorney Relationship with Council Members

The Council discussed the past practice for Council to correspond with the Town Attorney through the Town Administrator. The Council reached a consensus for Mayor Pro-Tem Scott and Parker to develop procedures for Council contact with the Attorney for consideration during the February 1, 2016 meeting.

Discussion Concerning Council Meeting Room Improvements

The Council discussed the need for a larger Council Chambers and an updated audio system. The Council reached a consensus for Councilman Cerrato, Councilman Benton and Parker to analyze and develop a plan for Council consideration during the February 1, 2016 meeting.

Discussion Concerning Filming of Council Meetings

The Council discussed filming of Council Meetings and requested Staff to develop a RFQ.

COUNCILMAN BENTON MADE A MOTION FOR STAFF TO DEVELOP A RFQ FOR FILMING COUNCIL MEETING, TO ADVERTISE AND REPORT RESULTS TO COUNCIL. COUNCILMAN CERRATO SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Procedural Items (Cont.)

Establishment of Council Vacancy Procedures

The Council discussed the procedures that will be followed to select an applicant to fill the Council vacancy. The Council scheduled the following Special Meetings with regard to filling the current Town Council vacancy:

1. Date: Thursday, January 21, 2016 Purpose: To consider candidate questions received from the public Time: 6:30 pm Location: Town Hall Council Chambers 700 Sunset Blvd. North Sunset Beach, NC 28468
2. Date: Friday, January 22, 2016 Purpose: Candidates Forum Time: 6:30 pm Location: Sea Trail's Property Owners Association Building 200 Station Trail Sunset Beach, NC 28468
3. Date: Monday, February 8, 2016 Purpose: Council to appoint member to fill Council vacancy Time: 6:30 pm Location: Town Hall Council Chambers 700 Sunset Blvd. North Sunset Beach, NC 28468

NOTE: During the February 1, 2016 Regular Council Meeting, Council will announce the names of the three to five finalists. Each Council member will be given the opportunity to ask one question of each candidate. Afterwards the Council will deliberate and consider a motion to appoint a member to fill the Council vacancy. If the Council is unable to reach a majority vote, the Council will meet again on Monday, February 8, 2016 to continue the deliberation and consideration of appointing a member to fill the Council vacancy.

The Council established the following procedures for filling the current Town Council vacancy:

1. January 5th – January 20th - Accept questions from the public for the Council to consider asking the Candidates
2. January 21st - Council will meet to review questions received from the public and determine list of questions that will be asked of each Candidate
3. January 22nd - Council will host a Candidates Forum
4. February 1st - Council will announce the names of the three to five finalists; each Council member will be allowed one additional question of each Candidate followed by Council action to appoint a member to fill the vacancy. If Council is unable to make an appointment by majority vote, Council will meet again on February 8th.
5. February 8th - If necessary, Council will meet to continue deliberation and consideration of appointing a member to fill the Council vacancy.

The Council discussed private interviews with the candidates between January 5th and January 20th. Mayor Pro-Tem Scott, Councilman Benton and Councilman DeVita agreed with individual interviews and agreed that no more than two (2) members will interview a candidate together. Councilman Cerrato disagreed with members interviewing the candidates privately. Staff will set up the interviews.

Consideration to Move Work Sessions to nighttime

Councilman Cerrato contended that the Work Sessions held during the day are poorly attended and that they are actually meetings since the Council does take action at times. Councilman Cerrato suggested holding two (2) monthly meetings on the first and third Monday night beginning at 6:30 pm and to cancel the 9:00 am Work Sessions.

Procedural Items (Cont.)

Consideration to Move Work Sessions to nighttime (Cont.)

MAYOR PRO-TEM SCOTT MADE A MOTION TO CHANGE THE NAME OF THE MONTHLY WORK SESSION TO MEETING AND TO MOVE THE LOCATION FROM THE CONFERENCE ROOM TO THE COUNCIL CHAMBERS WITH THE TIME REMAINING AT 9:00 AM. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Agenda Preparation

The Council discussed the agenda preparation and reached a consensus to add an agenda item to the meeting agendas to allow Council to establish the agenda items of the next Meeting. Staff can still add items to the agenda also.

Council Procedures

Mayor Pro-Tem Scott requested the Council to consider adding the following procedures on a trial basis:

- to recognize a member in the audience that is able to add helpful information to a Council discussion,
- to allocate two (2) additional minutes to a person during the public comment period if justified, and,
- to allow Councilmembers to answer questions or rebut a statement made.

The Council reached a consensus to add the requested procedures on a two (2) month trial basis.

Old Business

Update on NC DOT Main Street Widening Project

Parker advised that NCDOT is preparing to award the contract in February.

Consideration of Adoption of Temporary Development Moratorium Ordinance

Grady Richardson, Town Attorney and the Council discussed existing moratorium laws and the need for the Council to establish the required findings in written ordinance form for Council consideration. Mayor Pro-Tem Scott advised that the prior fill ordinance regulated the amount of fill that was able to be placed on a lot due to stormwater management issues, building height restrictions and environmental concerns. Mayor Pro-Tem Scott advised that the ordinance was omitted from the UDO unknowingly to this Council and Staff.

MAYOR PRO-TEM SCOTT MADE A MOTION TO DIRECT STAFF TO WRITE A TEMPORARY DEVELOPMENT MORATORIUM ORDINANCE WITH THE FINDINGS DISCUSSED INCLUDING A TERMINATION CLAUSE OF 59 DAYS FROM ADOPTION FOR COUNCIL TO CONSIDER DURING THE FEBRUARY 1, 2016 MEETING. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Consideration of Awarding the Construction Contract for Town Park Gazebo and Restroom

Parker advised that the contractor has agreed to construct the restroom facility for the amount of the bid if the construction plan does not change. Councilman DeVita questioned the additional cost that will be expended by the Town by splitting the construction of the amenities.

Old Business (Cont.)

Consideration of Awarding the Construction Contract for Town Park Gazebo and Restroom (Cont.)

COUNCILMAN BENTON MADE A MOTION TO AWARD THE CONTRACT FOR THE CONSTRUCTION OF THE RESTROOM FACILITY ONLY TO LUMINA BUILDERS. MAYOR PRO-TEM SCOTT SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE. MAYOR PRO-TEM SCOTT, COUNCILMAN BENTON AND COUNCILMAN CERRATO VOTED YES. COUNCILMAN DEVITA VOTED NO. THE MOTION CARRIED BY MAJORITY VOTE.

Survey Discussion

Mayor Pro-Tem Scott requested the Council to consider conducting a survey to determine the property owners' desire for a gazebo to be constructed in the Park and the continuation of the Sunset at Sunset Celebration. The Council reached a consensus to discuss the survey during the second meeting in April.

New Business

Consideration to Authorize Town Administrator to Proceed with Construction of the Beach Access Walkway Repairs and Extensions for approximately 10 Walkways

Parker advised that the majority of the west-end beach access walkways (10) need to be extended approximately 70' towards the ocean for ADA compliance and dune preservation. The estimated cost is \$170,000 and will be funded by the Beach Erosion Fund. Staff was directed to rank the walkways and to release an RFP to determine actual cost.

Consideration of Acceptance of Planning Board Recommendations for Ordinance Amendments of Article 9 Part III Outdoor Lighting Sections 9.15 – 9.24 and to Schedule Public Hearing for February 1, 2016 at 7:00 pm

The Council reviewed the recommendation received from the Planning Board concerning the repeal and replacement of the Article 9 Part III Outdoor Lighting Ordinances.

MAYOR PRO-TEM SCOTT MADE A MOTION TO ACCEPT THE PLANNING BOARD RECOMMENDATION AND TO SCHEDULE A PUBLIC HEARING FOR FEBRUARY 1, 2016 AT 7:00 PM TO HEAR COMMENTS CONCERNING THE REPEAL AND REPLACEMENT OF THE ARTICLE 9 PART III OUTDOOR LIGHTING ORDINANCES. COUNCILMAN DEVITA SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Consideration of Acceptance of Planning Board Recommendations for Ordinance Amendments of Article 6, Section 6.04 Table of Permitted Uses; Article 7, Section 7.14 Swimming Pools; and Appendix A Definitions and to Schedule a Public Hearing for February 1, 2016 at 7:00 pm

The Council reviewed the recommendation received from the Planning Board related to allowing Hot Tubs as a permitted use with supplemental regulations, to adding the proposed supplemental regulations for Hot Tubs and to adding a definition of Hot Tubs.

MAYOR PRO-TEM SCOTT MADE A MOTION TO ACCEPT THE PLANNING BOARD RECOMMENDATION AND TO SCHEDULE A PUBLIC HEARING FOR FEBRUARY 1, 2016 AT 7:00 PM TO HEAR COMMENTS RELATED TO ALLOWING HOT TUBS AS A PERMITTED USE WITH SUPPLEMENTAL REGULATIONS, TO ADDING THE PROPOSED SUPPLEMENTAL REGULATIONS FOR HOT TUBS AND TO ADDING A DEFINITION OF HOT TUBS. COUNCILMAN DEVITA SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE. MAYOR PRO-TEM SCOTT, COUNCILMAN DEVITA AND COUNCILMAN CERRATO VOTED YES. COUNCILMAN BENTON VOTED NO. THE MOTION CARRIED BY MAJORITY VOTE.

New Business (Cont.)

Consideration of Acceptance of Planning Board Recommendation for Ordinance Amendment of Article 2 General Regulations Section 2.17 (Added to Table of Contents) and Section 2.18 Filling, Grading and Excavation and to Schedule a Public Hearing for February 1, 2016 at 7:00 pm

The Council reviewed the recommendation received from the Planning Board to add Section 2.17 to the Table of Contents and to add Section 2.18 Filling, Grading and Excavation Ordinance as proposed. Mayor Watts called on Planning Board Chairman Ton Vincenz who advised the Council that the Planning Board is requesting the Council to adopt the verbatim language of the prior ordinance that was omitted from the UDO while the Planning Board continues to draft additional language although the Planning Board has not met sent submitting the recommendation.

MAYOR PRO-TEM SCOTT MADE A MOTION TO ACCEPT THE PLANNING BOARD RECOMMENDATION TO ADD SECTION 2.17 TO THE TABLE OF CONTENTS AND TO ADD SECTION 2.18 FILLING, GRADING AND EXCAVATION ORDINANCE USING THE LANGUAGE OF THE PRIOR ORDINANCE THAT WAS OMITTED DURING THE UDO ADOPTION PROCESS INSTEAD OF THE PLANNING BOARD RECOMMENDED LANGUAGE. COUNCILMAN CERRATO SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Discussion Concerning Submitting Comments to DOEM Regarding the South Carolina Call Area for Wind Energy

Mayor Watts advised that the public hearing concerning the South Carolina Call Area for Wind Energy will be held on January 7, 2016. Written comments will be accepted by DOEM through January 25, 2016. Mayor Watts plans to attend the public hearing and requested Council to revise the recently adopted Resolution Opposing the Issuance of Wind Energy Leases within 24 Nautical Miles of the Coastline to be submitted with regard to the South Carolina Call Area. The Council agreed. Mayor Watts will revise the Resolution for consideration by Council during the January 19, 2016 meeting.

Beach Cabanas

Councilman Benton advised that at high tide adequate beach strand doesn't exist for the emergency lane and the cabanas. Councilman Benton requested Council to re-consider the decision to allow cabanas. Mayor Pro-Tem Scott advised that the Council receives a Beach Patrol report annually during the September or October Meeting concerning the last beach season and any recommendations for regulation amendments for Council to consider. Mayor Watts advised that numerous rental reservations for next year have been made already and in all fairness the Council shouldn't amend the current regulations now. Staff meets with the Cabana company owners prior to season to review the regulations.

Public Comments

Jean Hutchinson 436 6th Street – Advised that this is a resort Town and she wants tourism; stated advice to the tent companies is if the tide is up to the dunes don't put up the tents; stated that the Council signed a contract and should honor the agreement by putting the amenities in the park.

Carol Santavicca 9109 Forest Drive – Advised that the Planning Board did a survey in 2004/2005 and Withers & Ravenel did another in 2012 both showed that citizens wanting covered picnic areas.

Charles Nern 647 Oyster Bay Drive – Advised that he was on the UDO Committee and the fill ordinance was not omitted by either the UDO Committee or the Planning Board intentionally.

Public Comments (Cont.)

Bill Satterfield 103 Old Oake Lane – Spoke in opposition of allowing additional time for public comment speakers and the Council responding.

Robert Donnelly 213 Planters Ridge Drive – Suggested the Council vacancy candidates be given the questions in advance.

Sammy Varnum 1574 Monster Buck Estates – Advised that the fill ordinance will be problematic; stated the Park needs the gazebo.

Steve Blair 201 Shoreline Drive East – Spoke in opposition of the gazebo construction.

Jan Harris 206 North Shore Drive – Advised that the Palm Cove building permits were issued in 2009.

Adjournment

COUNCILMAN DEVITA MADE A MOTION TO ADJOURN THE JANUARY 4, 2016 COUNCIL MEETING. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

Town of Sunset Beach

Ron Watts, Mayor

Submitted by:

Lisa Anglin, Town Clerk